ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

FEB 12 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 | ) | CC Docket No. 96-128 |
| | ) | |
| PACIFIC BELL AND NEVADA BELL | ) | |
| | ) | |
| Comparably Efficient Interconnection Plan for the Provision of Payphone Service | ) | |

# COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL ON PACTEL'S CEI PLAN

Albert H. Kramer
Robert A. Aldrich
David M. Janas

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 828-2226

Attorneys for the American Public Communications Council

February 12, 1997

No. of Copies rec'd 0+4
List ABCDE

645529

## SUMMARY

Pactel's CEI plan does not contain enough information to enable the Commission and interested parties to tell whether its plan meets the requirements of the Payphone Orders and Computer III. Thus, the Commission should require Pactel to refile its Plan and subject it to the same public commenting period as its initial filing.

To the extent that information is provided, Pactel does not comply with the Commission's CEI requirements.

Pactel has not provided federal tariffs despite the Commission's explicit directive that

> any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis. Those unbundled features or functions must be tariffed in the state and federal jurisdiction.

and that

> LECs must file with the Commission tariffs for unbundled features consistent with the requirements established in the Report and Order.

Only "the basic payphone line for smart and dumb payphones" is to be tariffed exclusively at the state level.

Further, Pactel's state tariffs do not unbundle coin line features from the underlying line. It is thus not possible to determine with certainty the differences in rates for "COCOT" and "coin line" service and hence the rate for the coin line functionality. For example, the Commission must require Pactel to provide single rates for answer supervision service applicable to both COCOT lines and coin lines. The Commission must also require Pactel to disclose its pricing methodologies for COCOT and coin line service.

In addition to these tariffing issues, there are several issues that relate specifically to Pactel's offering of coin lines. While Pactel often offers coin line service where "available," Pactel does not indicate where in fact coin line service is or is not available. Pactel must disclose how it is providing payphone service in areas where coin lines are not available.

A LEC does not comply with CEI requirements simply by offering to IPPs the identical services that the LEC uses for its own payphone operations. IPP providers must be able to use unbundled functions in the same manner as the LEC uses them. To the extent that Pactel's coin lines do not offer subscriber-specific rating for sent-paid intraLATA toll calls, local calls and directory assistance, its coin lines are not useful to IPPs and its CEI offering is discriminatory. Moreover, the Commission's Payphone Orders make clear that the subscriber has the right to choose the carrier for operator-assisted calls and that non-emergency 0- calls should be sent to the presubscribed OSP. To the extent that Pactel's coin line tariffs require operator assisted intraLATA and local calls to be routed to Pactel, its coin line service is discriminatory and further vitiates the utility of the coin line to the IPP industry.

It is feasible for Pactel to offer a coin-line or coin-line equivalent service that is free from the above discriminations. Such a service is currently offered by Ameritech in Illinois under the name "ProfitMaster." Pactel should be required to make a similar service available generally at the same rates under which it provides coin-line service to its own payphones.

In the area of service order processing, installation, maintenance and repair service, Pactel does not make clear that its practices regarding maintenance and repair will be nondiscriminatory by explicitly stating the practice it will follow with respect to its existing base.

Pactel should be required to describe its line number assignment policies. Pactel also does not address nondiscrimination in assignment of screening codes. Under the Commission's Payphone Orders, a "discrete" screening code is required to enable interexchange carriers to track calls for compensation. To the extent that Pactel payphones are assigned a unique screening code, while independent payphones are provided a screening code that requires reference to an external database to ascertain that the originating line is a payphone, Pactel's CEI offering is discriminatory. Assignment of a unique screening code only to coin lines would give Pactel's payphones a tremendous advantage in the collection of per-call compensation, apparently eliminating any need for Pactel's payphone operation to rely on the time consuming and error-prone LEC verification process. Accordingly, the Commission should require Pactel to clarify that it will assign a unique screening code to IPP providers.

Pactel does not address whether intraLATA operator services used by Pactel will be part of Pactel's payphone service or remain part of the regulated service. Pactel must specify what network operator functions support Pactel and how they will be available on the same basis to independent payphone providers.

Finally, Pactel does not meet the Commission's CEI requirements regarding CPNI and Semi-Public Payphones.

The Commission should direct Pactel to refile its plan or amend it to comply with CEI requirements. The plan must then be made available for public comment for a period comparable to the comment period for the initial plan.

# TABLE OF CONTENTS

**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 | ) | CC Docket No. 96-128 |
| PACIFIC BELL AND NEVADA BELL | ) | |
| Comparably Efficient Interconnection Plan for the Provision of Payphone Service | ) | |

## COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL ON PACTEL'S CEI PLAN

Pursuant to the Commission's January 13, 1997 Public Notice, the American Public Communications Council ("APCC") submits these comments on the Pacific Bell and Nevada Bell ("Pactel," collectively) CEI Plan, filed by Pactel on January 6, 1997.

## DISCUSSION

Pactel's comparably efficient interconnection ("CEI") plan lacks sufficient information so that the Commission (and interested parties) can evaluate whether the Commission's nondiscrimination requirements will be met.[1] Pactel (like the other LECs)

---

[1] As one example, Pactel's plan does not specify whether it will provide signaling information tones ("SIT"). In the absence of true answer supervision, SIT must be (Footnote continued)

provides very little information in its CEI plan, hindering the evaluation of its CEI plan by interested public commenters and the Commission. As addressed below, the Commission should require Pactel to refile its CEI plan and to provide all information required to fully assess all CEI equal access parameters and nonstructural safeguards for the provision of payphone services.[2]

Moreover, in the event that Pactel provides ***additional information*** in its reply, as BellSouth and Ameritech did with their replies after withholding it from their initial CEI submissions, then the Commission should permit interested parties the same opportunity to review it and comment on it that was provided for the initial filing. Otherwise Pactel will have effectively evaded the Commission's requirement that the CEI plans be subject to public comment.

To the extent that Pactel does provide information in its CEI plan, in numerous instances Pactel's CEI Plan fails to comply with the CEI equal access parameters and nonstructural safeguards. These deficiencies are addressed below.

A LEC must provide basic network services and unbundled functions used by its payphone operations to IPP providers on a "comparably efficient" and "nondiscriminatory"

---

(Footnote continued)
provided to IPP providers because if SIT do not precede operator intercept messages, the operator intercept messages are likely to be incorrectly treated as completed calls.

[2] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Notice of Proposed Rulemaking, 11 FCC Rcd 6716 (1996), Report and Order, FCC 96-388, released September 20, 1996 ("Payphone Order"), Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Reconsideration Order").

basis. Comparably efficient interconnection requirements are not met simply because a LEC provides the identical services that the LEC uses for its own payphone operations. These basic network services and unbundled functions must be available to IPP providers on a ***functionally equivalent*** basis; i.e., IPP providers must be able to use the unbundled functions in the same manner as the LEC uses them. The Commission must carefully evaluate the LEC's CEI plan to ensure that the LEC's offerings are ***effectively*** as well as ***formally*** nondiscriminatory.

As discussed below, the coin line service currently offered to IPP providers is not useful to IPP providers to the extent that Pactel does not permit IPP providers to select rates for sent-paid intraLATA toll calls and overtime rates and timing for local calls. To the extent Pactel does not permit subscriber-selected call rating with its coin line service, then it is not useful to IPP providers. Moreover, to the extent that Pactel's coin line service does not enable IPPs to send operator-assisted calls to the OSP of their choice, the coin line service is not useful to IPPs.

For these reasons,[3] the Commission must be vigilant to ensure that "customer owned, coin operated telephone" ("COCOT") service charges and coin line service charges

---

[3] The LECs cannot satisfy either CEI or Section 276's competitive mandate by making available a single offering of network features and functionalities, which forces any competitor who wants to use the network features and functionalities to compete, to do so by offering the same prices and the same package of the LEC's payphone entity. Yet, as described below, that is what Pactel proposes to do. Under any circumstances, such an offering falls short of CEI and Section 276.

Pactel's conduct is aggravated by the context in which this offering is made. Because IPP providers were denied any opportunity at all to interconnect to the coin line functions of the Bell Companies' networks, IPP providers were forced to invest in payphone instrument-based technology in order to provide the basic call rating functions

(Footnote continued)

reflect true costs and are nondiscriminatory.[4] As addressed below, the Commission should require Pactel to describe the methodologies it used to determine its rates for coin line and COCOT service.

Moreover, Pactel must be required to state in its CEI plan how many of its payphones in each jurisdiction are subscribed to COCOT service and how many are subscribed to coin line service. This information is essential in order to understand the manner in which Pactel intends to provide payphone service and the extent of any discriminatory impact resulting from improper tariff structures and charges. In order for the Commission to effectively determine whether Pactel's CEI Plan has eliminated subsidies and discrimination, the Commission needs to know the extent to which Pactel

---

(Footnote continued)
and call control functions that are essential to the operation of a coin payphone. Thus, for many IPP providers it is impractical, at least in the near future, to subscribe to the coin line services that the LECs use for their own payphone operations. The IPP providers have already made substantial investment in instrument-implemented payphones and the necessary support for those instruments. Conversion to coin line service in the short run would effectively strand their investment in instrument-based technology. Unless the Commission is vigilant to ensure that the LECs do not undermine IPP providers until they can effectively choose between the central office based support now being made available and phone-based technology, the LECs will be able to extend their discriminatory practices.

[4] In Pactel's attached tariffs, "COCOT" service is called "COPT Service (Basic)." Coin line service is called "COPT Coin Line" service. Pactel's Nevada state tariff references ***another service*** in addition to its "Basic COPT access line" (i.e., COCOT) service and its "COPT Coin access line" (i.e., coin line) service; it also provides "Enhanced COPT access line" service. See, e.g., Nevada Bell's Tariff P.S.C.N No. A5, § A5.5.3.C.4, at 61.4.2 (attached hereto). However, Pactel provides ***no*** information regarding the "special central office features and equipment" provided with this enhanced COCOT service. The Commission should require Pactel to fully describe this additional service in Pactel's amended CEI plan.



645529

continues to rely on network services that are not effectively available to independent providers.

## I. TARIFFED "COCOT" AND "COIN LINE" SERVICES

### A. The Plan Does Not Include Federal Tariffs For Coin Line Features

A basic CEI requirement is that the LEC must file copies of applicable federal tariffs with its CEI plan. The Reconsideration Order unequivocally requires that:

> any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis. Those unbundled features or functions must be tariffed in the state and federal jurisdiction.

Reconsideration Order, ¶ 162 (emphasis added). In the next paragraph, the Reconsideration Order states:

> LECs must file with the Commission tariffs for unbundled features consistent with the requirements established in the Report and Order.

The only service that LECs are not required to tariff at the federal level is "the basic payphone line for smart and dumb payphones." Reconsideration Order, ¶ 163. Pactel's plan clearly cannot be approved until it has filed all required federal tariffs.[5]

[5] For example, U S West and Southwestern Bell have filed federal tariffs for their answer supervision and call screening services, see, e.g., Southwestern Bell's January 15, 1997 Transmittal No. 2608; U S West's January 15, 1997 Transmittal No. 823, and other independent LECs also have filed federal tariffs for some coin line features.

### B. Pactel's State Tariffs Are Incomplete And Fail To Unbundle Coin Line Features From The Basic Payphone Line

As discussed above, the Commission's Order on Reconsideration made clear that "any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis" at the state and federal levels, while "the basic payphone line" is to be unbundled and tariffed at the state level only. Reconsideration Order, ¶ 162. It is not possible to determine whether Pactel is charging cost-based prices for its coin line services, applying the same methodologies to coin line and COCOT service, and otherwise pricing its coin line service in compliance with requirements of the Payphone Order. Further, the sample tariffs that Pactel provides regarding payphone services offered to PSPs are incomplete and do not permit any effective analysis of the overall charges for basic payphone services and unbundled features provided to PSPs.[6]

While Pactel bundles some features with both its COCOT and coin line services, some features are only included with coin line service. For example, while Pactel includes answer supervision with its coin line service, it charges an additional $4.00 for answer supervision service when used with COCOT service. On the other hand, Pactel includes its screening service with both COCOT and coin line service. Pactel should be required to be consistent regarding bundled and unbundled prices for features used with its COCOT and

---

[6] Moreover, Pactel referenced January 15, 1997 additional tariff filings for its Automatic Number Identification service, flat-rated and measured coin line service, and Charge-a-Call service, Pactel's CEI Plan at 4 n.6 & 7, but it did not amend its CEI plan to address these newly tariffed services.

coin line services. Moreover, Pactel should price these unbundled elements at the same rate whether they are used with COCOT or coin lines. However, Pactel has failed to meet these requirements. See, e.g., Schedule Cal. P.U.C. No. A5, § A5.5.3.C.7.g, at Sheet 476.5.4 ("However, the COPT Coin Line and features are offered as a bundled service, under one rate element.")[7]

Because Pactel has not tariffed "the basic payphone line" separately from coin line features, it is not possible to determine whether all discrimination between COCOT line services and coin line services has been eliminated, and whether Pactel's "basic payphone line" is uniformly tariffed at cost-based rates as the Payphone Orders require. Reconsideration Order at ¶ 163.

In short, because the "basic payphone line" is not subject to a unitary rate, and network features used with Pactel's COCOT and coin lines are not unbundled, Pactel has not met the Commission's CEI requirements. Accordingly, the Commission should require Pactel to comply with the Commission's unbundling requirements.

---

[7] Pactel failed to include any Nevada tariffs with its Plan. Pactel's Nevada state tariff does not indicate whether Pactel has additional charges for its blocking or screening services or whether these services are included with the charges for the COCOT and/or coin line services. See, e.g., Nevada Bell's Tariff P.S.C.N No. A5, § A5.5.3.D, at 61.5 (attached hereto). In Nevada, it is not clear whether Pactel bundles blocking or screening services with COCOT service, coin line service or both services.

### C. Pactel Must Be Required To Disclose Its Methodology For Pricing COCOT Lines And Coin Lines

Pactel's CEI Plan does not indicate that it is pricing its COCOT and coin line features at cost-based rates, as the Payphone Order requires.[8] In fact, while Pactel offers flat-rated coin line service, its COCOT service is offered on a measured basis. By bundling usage with the line rate for coin line service, while unbundling usage from the line rate for COCOT service, Pactel prevents the Commission (and interested parties) from determining if the cost methodologies are consistent and if the rates are nondiscriminatory.

In Nevada, for example, Pactel's flat rate for coin line service is $41.00, and its measured rate for coin line service is $31.00, with a $0.05 charge per message. Nevada Bell's Tariff P.S.C.N No. A5, § A5.5.3.D, at 61.5 (attached hereto). Based on the $10.00 differential between Pactel's flat-rated and measured-rated coin line services, it apparently estimates that a typical payphone will originate 200 local calls per month. However, APCC's survey indicate that a typical payphone averages 500 local calls per month. Thus, Pactel apparently provides preferential rating for its flat-rated coin line service.

The Commission must require Pactel to disclose the rate methodologies used to develop its COCOT and coin line service charges, so that the Commission can ensure that the same pricing methodology was used for each service, and that there is no subsidy for the coin line service. If disparate pricing methodologies are used so that a lower

---

[8] The Commission requires LEC's intrastate tariffs for payphone services and unbundled features to be cost based. Reconsideration Order at ¶ 163. The cost-based rates must be determined under the Commission's new services test, which is described at 47 C.F.R. § 61.49(g)(2). Id. at ¶ 163 n.492.

"contribution" is provided from Pactel's coin line rates than from its COCOT line rates, this would demonstrate that Pactel is discriminating and providing a subsidy for its own payphone operations.

Under Section 276 of the Act, the Commission is required to ensure that all subsidies and discrimination in favor of Bell company payphones are eliminated. Satisfying the Commission's Section 276 obligations necessarily requires close scrutiny of Pactel's rate levels for the basic services offered in connection with its COCOT and coin line services, especially since coin line services, at least for the near future, can be effectively used predominantly by Pactel payphones only.[9]

### D. Coin Line Issues

#### 1. Availability of Coin Line Service

Pactel provides that coin line service is only "available where equipment, facilities and operating conditions permit." See, e.g., Schedule Cal. P.U.C. No. A5, § A5.5.3.C.1.a, at Sheet 476. Pactel does not specify in its CEI plan to what extent coin line service is unavailable, or whether any payphones in its embedded base are located in areas where coin line service is "unavailable." Pactel must be required to disclose in which areas coin line service is "unavailable" and how many, if any, payphones it has currently installed in such areas. Of course, to the extent that Pactel has new or embedded payphones in such areas, it must be required to convert such payphones to COCOT service. Otherwise, Pactel

---

9 Such scrutiny is even more important to the extent that the coin line services are structured to prevent IPP providers from selecting their own rates and OSPs, as addressed below.

would be in the position of providing coin line service to itself while claiming that it is "unavailable" to IPP providers.

2. Subscriber-Selected Call Rating

As APCC, New Jersey Payphone Association ("NJPA"), and Georgia Public Communications Association ("GPCA") have previously argued, providing a coin line that rates calls only at the end user rates used by the LEC's own payphone division is patently discriminatory and spoils any utility the coin line service would otherwise have for IPP providers.[10]

Pactel's CEI Plan and attached tariffs do not indicate whether its coin line service can be used by subscribers to select rates for sent-paid intraLATA toll calls. To the extent that coin line service subscribers cannot rate intraLATA toll calls at a rate other than the rate selected by Pactel's payphone division, Pactel's coin line service discriminates in favor of Pactel's payphone division, and Pactel violates the Commission's CEI requirements.

Moreover, in light of the deregulation of local call rates later this year,[11] Pactel's CEI Plan and attached tariffs do not indicate if it will program its network to coin line subscribers' chosen over-time periods and corresponding over-time rates for local calls,

---

[10] See, e.g., Petition of NJPA for Partial Reconsideration and Clarification, filed October 21, 1996 in the proceeding leading to the Payphone Order at 3-7. (APCC will provide copies of this filing upon request.) IPP providers subscribing to such coin lines are effectively forced to adhere to the same rates charged by the LEC-affiliated payphone competitor. IPP providers are precluded from developing innovative rate structures such as "call anywhere in the United States for 25 cents per minute" -- an increasingly popular approach that has been shown to increase coin traffic at many payphones.

[11] See Payphone Order at ¶ 61. Local call rates should be deregulated by October 7, 1997.

rather than forcing coin line subscribers to use Pactel's payphone division's preferred over-time periods and corresponding rates for local calls.[12]

To meet CEI requirements, Pactel must permit all coin line subscribers to set the initial time period, the over-time periods, and ***all*** rates corresponding to these periods for local calls, as well as rates for sent-paid intraLATA toll calls. To the extent that IPP providers are forced to use Pactel's payphone division's rate structure, Pactel does not provide comparably efficient interconnection. Accordingly, the Commission should require Pactel to refiled its CEI plan (and its state tariffs as necessary), clarifying that it will permit IPP providers to set the initial and over-time rates and time periods for local calls, as well as selecting the rating for sent-paid intraLATA toll calls.

As the Commission recognized in the Payphone Order, the purpose of Section 276 is to promote payphone competition, and a fundamental feature of a competitive market is price competition. The Commission deregulated local coin rates because it recognized that pricing flexibility is fundamental to the development of payphone competition. It would be utterly contrary to the purposes of Section 276 if Bell companies such as Pactel are allowed to offer a "nondiscriminatory" coin line service that forces its subscribers to price payphone calls at the same rates charged at Pactel's own payphones.

The fact that the rates for intraLATA sent-paid calls and local calls may have been specified in Pactel tariffs does not make the rate selection features nondiscriminatory. The purpose of the rate is to apply to sent-paid ***payphone*** calls. To say that the rate is

---

12 An example of an initial rate is $0.25 for the first 5 minutes. An example of an overtime rate is $0.05 for each additional 3 minute period after the initial 5 minute period.

"selected" by Pactel rather than its payphone service operation ("PSO") is simply an artifice to avoid CEI compliance. Because Pactel's PSO collects and keeps the charges, it would be transparently false to claim that Pactel's PSO is not responsible for deciding what the charges will be.

Likewise, Pactel does not specify how directory assistance rates are set. Thus, Pactel should clarify in its revised coin-line tariffs and its amended or re-filed CEI plan that payphone providers can select the rates charged for revised coin-line directory assistance.

3. Operator Service Provider ("OSP") Selection

While Pactel states that the PSP can select the OSP for intraLATA calls with its COCOT service, Pactel CEI Plan at 4, Pactel's CEI Plan is silent with respect to OSP selection for its coin line service.

Section 276 provides that PSPs are entitled to select the OSP for intraLATA (including local) operator-assisted calls. Therefore, to the extent that Pactel does not permit OSP selection for its coin line service, Pactel's CEI plan is inconsistent with Section 276.[13]

Forcing a PSP to select Pactel as its presubscribed OSP in order to obtain a coin line is discriminatory, anticompetitive, and further vitiates the utility of the coin line to the IPP industry. Pactel should be required to refile its CEI plan with instructions to clarify

---

[13] With respect to 0- calls, the Commission has stated that while states can require that 0- calls be routed to LECs for emergency purposes, when a 0- call is not an emergency call, the call should be sent to the OSP selected by the payphone service provider ("PSP"). Payphone Order, at ¶ 259.

that all non-emergency operator assisted calls will be sent to the provider selected by the PSP .

* * *

Pactel cannot reasonably claim that it is infeasible to allow coin line subscribers to select the rate for sent-paid intraLATA and timed local calls and to select their presubscribed OSP. For example, as discussed in the filings of NJPA and GPCA in the proceeding leading to the Payphone Order, Ameritech currently provides all these capabilities through its ProfitMaster service in Illinois, which provides the coin rating and coin control functions that characterize coin line service, and is thus the functional equivalent of coin line service. Furthermore, Southwestern Bell's coin line tariffs indicate that subscribers can select the rates for sent-paid intraLATA calls. The Commission should "benchmark" the unbundled services offered by one LEC against those offered by another. See Interconnection Order, CC Dkts. Nos. 96-98 and 95-185, FCC 96-325 (released August 8, 1996) (subsequent history omitted) and 47 CFR § 51.305(c)(3) (if interconnection is once provided at a point in a network, it is presumed feasible in similar networks).

## II. SERVICE ORDER PROCESSING, INSTALLATION, MAINTENANCE AND REPAIR SERVICE

With respect to the procedures Pactel will follow regarding service order processing, installation, maintenance and repair service, Pactel provides some useful information, but still leaves many questions unanswered. For example, Pactel claims that its installation, maintenance and repair procedures are designed to be "mechanized" and



845529

describes the mechanical and automated aspects of its service order processing system. Pactel states that Pactel's payphone division and IPPs will have comparable access to the service order processing, installation, maintenance and repair services. But Pactel does not indicate specifically the nature of the access that will be permitted to its payphone division personnel. For example, will payphone division personnel be allowed to enter orders directly into the service ordering system? If so, will independent providers also have that ability? How will such direct access by managed? Will payphone division personnel have computer terminals in their offices that can directly access the service ordering system? If so, what "comparable" access will be provided to independent PSPs?

Pactel does not address service ordering procedures involved when a location provider changes a Pactel payphone division payphone to an IPP payphone, or when an IPP provider payphone becomes a Pactel payphone division payphone. Pactel must specify its procedures so that the Commission and interested parties can assess whether service orders are treated equally in this context.

This is especially important where changes of ownership are involved. For example, if a location provider enters into a contract with Pactel's payphone division, and a contract is in place between an IPP provider and the previous user, what procedures does Pactel follow to determine who is the location provider of record for purposes of authorizing and/or ordering service, from Pactel's perspective as a provider of local exchange service? On the other hand, what procedures are followed if the positions are reversed, and the location provider enters into a contract with an IPP, and a contract is in place between the previous owner and Pactel's payphone division? Pactel should specify the procedures it will use to resolve in a nondiscriminatory fashion the conflicts that arise in this context, and to ensure that no undue preferences are given to Pactel's payphone division.

Pactel does not specify in detail the procedures to ensure that unfair marketing practices will not be employed by Pactel and its payphone division when payphones are replaced. For example, Pactel's service ordering procedures must specify that Pactel's payphone division is not notified when a new service order is placed for an IPP payphone.

Further, Pactel's plan does not state how maintenance and repairs will be handled for the installed base, where no network interface has yet been installed. Even though no interface may have been installed yet, a demarcation point can and should be identified to determine at what point wire maintenance should be charged separately to Pactel's payphone division as "inside wire" maintenance and at what point wire maintenance may be included as part of the tariffed access service.[14] Pactel should be required to amend or re-file its plan to state its specific practices with respect to the demarcation point.

---

[14] Some Bell companies appear to take the position that by grandfathering existing payphones, the Commission has relieved them of any requirement to allocate wire maintenance costs for such payphones to unregulated accounts. BellSouth Reply, filed January 15, 1997 in CC Docket No. 96-128 at 27. The Commission grandfathered the <u>location</u> of existing LEC payphones, citing the cost and difficulty of moving existing payphones. <u>See</u> <u>Payphone Order</u> at ¶ 151. But the Commission did <u>not</u> authorize LECs to fail to identify a nondiscriminatory, nonsubsidizing method of determining which wire maintenance costs should be allocated to regulated or deregulated operations.

As an example of how Pactel clearly discriminates against subscribers of its COCOT service (IPP providers) and favors subscribers of its coin line service (its payphone division), Pactel treats the demarcation point differently depending on whether a payphone uses COCOT or coin line service. For a payphone using COCOT service, Pactel locates the network interface twelve inches within Pactel's protector or building terminal, see, e.g., Nevada Bell's Tariff P.S.C.N No. A5, § A5.5.3.B.i, at 61.2 (attached hereto), for a payphone using coin line service, Pactel locates the demarcation point *at the set*, see, e.g., Nevada Bell's Tariff P.S.C.N No. A5, § A5.5.3.C.3.f, at 61.4.2 (attached hereto); Schedule Cal. P.U.C. No. A5, § A5.5.3.C.7.k, at 476.5.5. Thus, payphone providers using Pactel's coin line service will obtain preferential treatment, for example, with respect to obtaining installation, maintenance and repair service from Pactel, while subscribers to COCOT service are discriminated against.

Further, Pactel indicates that to some extent it will not share personnel (i.e., "technicians") between its regulated operations and its payphone division. See Pactel CEI Plan at 8 n.17. However, while Pactel states that payphone division personnel will not service the network, Pactel does *not* state that it will prohibit network personnel from servicing payphones. To the extent that personnel sharing takes place, especially in the areas of service order processing, installation, maintenance and repair, it is far more difficult to prevent discrimination by a Bell company in favor of its payphone operation. For example, if some of Pactel's service ordering system employees are also assigned to work for

Pactel's payphone division, it is extremely difficult to imagine how Pactel could manage to provide "comparable access" to service ordering procedures by independent PSPs.[15]

To the extent that Pactel does share personnel, then it must describe in detail the specific steps it will follow to ensure there will be no discrimination against IPPs, and no preferential treatment of Pactel's payphone division, in the provision of service ordering, installation, maintenance and repair.

In short, Pactel must be required to refile its CEI Plan with a more detailed description of the order processing, installation, maintenance and repair procedures it will follow regarding services for its own payphones.

## III. NUMBERS AND SCREENING CODES

### A. Number Assignments

The Payphone Order requires LECs to be nondiscriminatory in assignment of line numbers to payphones. Payphone Order at ¶ 149. Pactel's plan does not address the assignment of line numbers.[16] Because this issue is specifically addressed in the Payphone

---

15 In fact, for example, Ameritech has committed to not sharing personnel in these areas. See Ameritech CEI Plan at 9.

16 For example, assignment to payphones of line numbers in 8000 to 9000 range provides a distinct advantage in the prevention of fraud because they alert overseas operators to refrain from completing collect calls to such numbers. (On domestic calls, IXCs usually determine whether to complete collect calls by accessing LIDB and checking for the presence of billed number screening on the line. According to AT&T, it is not practical for overseas operators to access LIDB to determine the presence of billed number screening on a line to which a collect call is being placed.) IXCs frequently attempt to collect charges for incoming collect calls placed to payphones from overseas, even though the payphone is subscribed to billed number screening. Numbers in the 8000 to 9000 range were made available only relatively recently to IPP providers. By contrast, these
(Footnote continued)

Order, Pactel's plan should indicate what its number assignment policy is and how the policy is applied to Pactel's payphone division and other PSPs.

### B. Screening Codes

Pactel's CEI Plan fails to provide detail on the types of screening service Pactel will offer to independent and Pactel payphones.

Pactel has indicated that they will implement the Commission's OLS requirement by providing LIDB-based OLS rather than Flex ANI. See OLS Waiver Order, ¶ 3. With LIDB-based OLS, LECs continue to provide independent payphone service providers ("PSPs") using COCOT lines with the "07" code, which does not uniquely identify calls as payphone calls. To obtain such a unique identification, IXCs must arrange for access to LIDB information, which involves significant expense and/or delay. By contrast, LECs deploying LIDB-based OLS will continue to provide their own payphones, which use primarily "coin lines" with a "27" code that does uniquely identify calls to IXCs as payphone calls without any necessity to obtain additional information from LIDB.

While LIDB-based OLS may satisfy a LEC's pre-Telecommunications Act obligations, to the extent that Pactel provides IPP providers using COCOT lines with the "07" code, which does not immediately and uniquely identify calls as payphone calls, and

---

(Footnote continued)
numbers have been available to LEC payphones for many years. Consequently, APCC believes that 8000 and 9000 series numbers are assigned to a much higher percentage of the installed base of LEC payphones than the percentage they represent of the installed base of IPPs. Pactel should be required to allocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and IPPs are assigned 8000 and 9000 series numbers. See Payphone Order at ¶ 149.

by contrast, provides its own payphones, which use primarily "coin lines," with a "27" code, which does uniquely identify calls to IXCs as payphone calls, Pactel violates the Commissions CEI requirements.[17]

Prior to the Payphone Order, the Commission ordered LECs to provide an improved version of originating line screening ("OLS") that would enable IXCs to uniquely identify calls originating from IPP providers using "COCOT" lines. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report and Order, FCC 96-131, released April 5, 1996.[18] Traditionally, IPP providers using COCOT lines have been assigned the "07" code, which merely indicates the presence of calling restrictions and which apparently can be assigned to a variety of non-payphone lines. LEC payphones, by contrast, benefit from a unique "27" code associated with coin lines.

The "07" code for COCOT lines is clearly inferior to the unique "27" code provided to LEC payphones using coin lines, and such inferior treatment is inconsistent with the nondiscrimination requirements of Section 276(a). Moreover, the importance of

---

[17] Pactel indicates that IPP providers will receive a "27" code when they subscribe to coin lines, see Pactel CEI Plan at 4 n.6, however, Pactel must also provide a unique code with COCOT lines.

[18] However, since the OLS proceeding was initiated prior to enactment of Section 276, the Third Report and Order and subsequent orders have not addressed LECs' obligations under Section 276 and the Payphone Order. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Petitions Pertaining to Originating Line Screening Services, Memorandum Opinion and Order, CCB/CPD File Nos. 96-18 et al., released December 20, 1996, n. 28 ("OLS Waiver Order").